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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,074	04/13/2004	Dan L. Hankinson	61992	3984
24230	7590	06/02/2006	EXAMINER	
HARSHAW RESEARCH INCORPORATED			COCKS, JOSIAH C	
P O BOX 418			ART UNIT	
OTTAWA, KS 66067			PAPER NUMBER	

3749

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,074

Applicant(s)

HANKINSON, DAN L.

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/20/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-10,12,14 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12,14 and 20 is/are allowed.
- 6) ☒ Claim(s) 1,5,6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The replacement drawings filed 3/20/2006 are accepted by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, and are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,380,192 to Doren ("Doren") (cited by applicant in IDS filed 4/13/2004) in view of U.S. Patent No. 5,310,381 to Green ("Green").

Doren discloses in the specification and Figs. 1-5 an invention in the same field of endeavor as applicant's invention and similar to that described in applicant's claims 1 and 5. In particular, Doren shows a food roasting device including an elongate rigid rod (2) having a handle (3) and first and second ends. The rod defines a longitudinal axis (see Fig. 1). Doren further shows a basket (any of 4) having a wire frame construction and arranged in a tubular configuration having a continuous side wall (see Fig. 2). The basket includes a closed distal end (8) and an open proximal end (7) through which food may be inserted (see at least col. 2, line 68 through col. 3, line 1).

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In regard to claim 10, note the baskets are detachable (see at least col. 2, lines 31-32).

Doren possibly does not expressly provide that the material of the handle is such that it is slow to conduct heat or for an offset portion of the second of the rod provided such that the rod longitudinal axis and the basket longitudinal axis are inline.

Green teaches a roasting device in the same field of endeavor as both applicant's invention and Doren. In Figure 3 of Green, the device (14) is shown to include a rod (22) having a handle (34 and/or 30) and a portion (26) receiving a food product, such as a hot dog, for cooking. The distal end of the rod includes an offset or bend portion (19) which enhances the operation of the device at least by providing a stop member for a sliding handle (30) for when the user desires to remove the cooked food product from the end of the device (see col 3, lines 1-15 and 52-59). This offset portion allows for the longitudinal axis of the rod to be inline with a longitudinal axis of the food retaining portion (see Fig. 3).

In regard to claim 5 and the recitation of the material of the handle being slow to conduct heat, though Doren does not specify the material of the handle, the examiner considers that the handle is necessarily made of a material that is slow to conduct heat in order to allow a user to safely grasp the roasting device without being burned by heat transmitted along the rod. To support this assertion the examiner turns to description of the handles (30 and/or 34) of Green which are arranged to be slid over hot portions of the rod (22) in order to prevent the user from being burnt (see Green, col. 1, lines 55-59 and col. 3, lines 56-62). Therefore, a person of ordinary skill in the art would reasonably understand the handle of Doren to be made of a suitable material to slow transmission or conduct of heat to the hand of a user.

Therefore, in regard to claims 1, 5, and 10, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the roasting device of Doren to incorporate the offset portion of Green for the desirable purpose of providing a stop means for the sliding of a handle to the portion of the device exposed to heat so that the user may safely remove food from the food basket portion (see at least Green, col. 3, lines 52-62). In modifying Doren to include this offset portion, the longitudinal axis of the rod (22) of Doren would be inline with a longitudinal axis of the basket (4).

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doren and Green as applied to claim 1 above and further in view of U.S. Patent No. 3,433,151 to Farran et al. ("Farran") (cited by applicant in IDS filed 4/13/2004).

Doren and Green teach all the limitations of claim 6 except that the basket includes a first basket member and second basket member hingedly coupled, a tripper coupled to the rod adjacent the handle, and a linkage connecting the trigger with the first and second basket members for moving the two members between opened and closed configurations.

Farran teaches a food roasting device in the same field of endeavor as each of applicant's invention, Doren, and Green. In Farran, the roasting device includes a handle (15), a rod (13) and a basket (10) provided to receive a food product in the same manner as the basket shown in Doren. This basket (10) of Farran includes first and second members that are hingedly connected (see hinges 26 and Figs. 1 and 2). Operation of the first and second basket members to open and closed positions is provided via a linkage (32) that extends towards the handle portion. A latching device (38) is provide that includes a clip (36) is arranged near the handle

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portion to lock the basket members in a closed position. This latching mechanism (38) is considered to be the trigger as recited. Manipulation of the latching mechanism to release the end of the linkage (32) causes movement of the basket members in the manner recited.

Accordingly, in regard to claim 6, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the roasting device of Doren to incorporate the two member basket, trigger and linkage of Farran to desirably provide a roasting device that allows for firmly maintaining food products in an organized array over a heat source, allows for uniform cooking, and allows the food product to be readily removed from the device (see Farran, col. 1, line 64 through col. 2, line 4).

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doren and Green as applied to claim 1 above in view of U.S. Patent No. 5,666,940 to Kreiter ("Kreiter").

Doren and Green discloses all the limitations of claims 8 and 9 except for the sleeve, post and clamp assembly as recited.

Kreiter teaches a food cooking apparatus in the same field of endeavor as applicant's invention and Bore. In Kreiter, a cooking implement (16) is attached to stand that includes a post (10) for ground penetration and includes a slidable sleeve (42) and clamp assembly (20). The post defines a vertical axis, and the clamp assembly (20) may be adjusted/rotated about the vertical axis (see Fig. 1, col. 1, lines 27-30, and col. 2, lines 44-55).

Therefore, in regard to claim 8 and 9, it would have been obvious to a person of ordinary skill in the art to modify Bore to incorporate the stand structure of Kreiter for the desirable

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purpose of providing a stable and adjustable arrangement for a cooking assembly for cooking food items over an outdoor open fire (see Kreiter, col. 1, lines 5-43).

Allowable Subject Matter

6. Claims 12, 14, and 20 are allowed.

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 12 and 20, the prior art does not teach or suggest a food roasting device having the particular combination of the structural elements and their operation as recited in each of claims 12 and 20.

In regard to claim 14, this claim is allowed as being dependent upon allowable independent claim 12.

In regard to claim 7, the prior art does not teach or suggest the food roasting elements having the structural elements of base claim 1 and intervening claim 6 in combination with the further structural limitations of the linkage assembly as recited in claim 7 including the pushrod, rotating arm, fork, link and spring that are arranged and operate as recited.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 5, 6, and 8-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jcc
May 24, 2006


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749